



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 2**  
2890 Woodbridge Avenue  
Edison, New Jersey 08837

**APR 4 2016**

**PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**  
7012 3460 0002 1646 3449

Andrew G. Russell, Chairman  
Tonoga, Inc. dba Taconic  
136 Coonbrook Road  
P.O. Box 69  
Petersburgh, NY 12138

Re: Request to Provide Information

Dear Mr. Russell:

The U.S. Environmental Protection Agency – Region 2 (EPA or the Region) seeks your cooperation in providing information and documents relating to information known and actions taken by your Company (and any of its predecessors in interest) regarding certain chemical substances processed at your facility located in Petersburgh, New York.

In light of the contamination of water resources with perfluorinated compounds identified in Petersburgh, NY, we request that you provide the information requested in this letter in lieu of a TSCA inspection. We are requesting that your Company voluntarily provide the information requested herein within thirty (30) days of your receipt of this letter. If your Company chooses not to provide the requested information voluntarily, EPA may issue a subpoena pursuant to Section 11(c) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2610(c), seeking the information. We are hopeful that the issuance of a subpoena, or the use of other legal instruments and enforcement mechanisms, will not be necessary.

Pursuant to Sections 11(a) and (b) of TSCA, 15 U.S.C. § 2610(a) and (b), and for the purposes of enforcing TSCA, EPA may inspect, inter alia, any establishment, facility, or other premises in which chemical substances, mixtures, or products are manufactured, processed, or stored. Such inspection may extend to all things within the premises inspected bearing on whether the requirements of TSCA have been complied with.

For your convenience, we have enclosed instructions on how to respond to the enclosed questions and/or information requests. We have also enclosed a "Certification of Answers to Request for Information" and request that your response include a signed and notarized Certification from a responsible corporate official or representative. The United States has authority, pursuant to 18 U.S.C. § 1001, to seek criminal penalties from any person who knowingly makes any false statement, representation or certification. Note that the information submitted may be used by EPA to determine if the facility violated TSCA or any of its implementing regulations. Even if Taconic fully complies with this letter, the Company may still be subject to administrative, civil, or criminal enforcement action as provided by federal law.

Some of the information EPA is requesting may be considered by the Company to be confidential. Please be aware that the Company may not withhold the information on that basis. If the Company wishes EPA to treat such information confidentially, it must advise EPA of that fact by following the procedures outlined in the enclosed instructions, including the requirement to support its claim for confidentiality.

If you have information about other parties who may have information regarding the enclosed Request, please submit that information as well as part of your response.

All submissions in response to this request should be addressed to:

John Gorman, Chief  
Pesticides and Toxic Substances Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2  
2890 Woodbridge Avenue, Building 10  
Edison, NJ 08837-3679

To aid in our electronic record keeping efforts, please provide your response to this request for information in electronic format whenever possible, utilizing a portable document format (pdf) which is searchable (*i.e.*, uses optical character recognition ["OCR"]) to allow EPA to search for particular words or characters. Additionally, please provide any spreadsheet data in Microsoft Excel compatible software. If you must use paper, please do so without staples. Paperclips, binder clips and three ring binders are acceptable. The submission may be e-mailed to [Gorman.John@epa.gov](mailto:Gorman.John@epa.gov) only if it does not contain Confidential Business Information (CBI). If it does contain CBI, you must follow the directions for sending CBI in the enclosed "Instructions for Responding to Request for Information."

If you have any questions regarding this Request for Information, please have your attorney contact Amy Chester of Region 2's Office of Regional Counsel at (212) 637-3213 or [chester.amy@epa.gov](mailto:chester.amy@epa.gov).

We appreciate and look forward to your cooperation and response.

Sincerely,

A handwritten signature in black ink, appearing to read "John Gorman", with a long horizontal flourish extending to the right.

John Gorman, Chief  
Pesticides and Toxic Substances Branch

Enclosures

Instructions for Responding to Request for Information  
Certification of Answers to Request For Information  
Request for Information

cc: Scott N. Fein, Esq.  
Whiteman Osterman & Hannah LLP  
One Commerce Plaza  
Albany, NY 12260



## **Instructions for Responding to Request for Information**

### **A. Directions**

1. A complete and separate response should be given for each question. For each question contained in this letter, if information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your company's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
5. If additional information or any document(s) responsive to this Request becomes known or available to you after you respond to this Request, EPA hereby requests that your company supplement its response to EPA within 21 days from the date such information or document(s) became available to it.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number, and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.
9. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be specific.
10. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.

11. Provide documents that support or help explain each of your answers to the Request for Information and indicate, in your answer, precisely which part of which document is pertinent to your answer.
12. If the information requested has previously been submitted to EPA, the response may detail exactly when and where that information was previously submitted to EPA (*i.e.*, the date of the submission, the recipient of the information, and the location of responsive information) in lieu of resubmitting the information.
13. Confidential Information: The information requested herein must be provided even though your company may contend that it includes confidential information or trade secrets. Your company may assert a confidentiality claim covering part or all of the information requested, pursuant to 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information your company submits to EPA, your company must substantiate that claim. For each document or response your company claims is confidential, your company must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
3. measures taken by your company to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available;
6. whether your company asserts that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and
7. whether your company asserts that the information is voluntarily submitted information as defined in 40 C.F.R. 2.201(i), and if so, whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

To make a confidentiality claim, please stamp or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

To submit confidential information securely, place all confidential information documents or media in a sealed envelope bearing the phrase "TSCA CONFIDENTIAL BUSINESS INFORMATION (CBI) – TO BE OPENED BY ADDRESSEE ONLY." The outer envelope or packaging must contain no indication that the contents are CBI. Address the outer envelope or packaging to:

Mr. John Gorman  
Pesticides and Toxic Substances Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency – Region 2  
2890 Woodbridge Avenue, Building 10  
Edison, NJ 08837-3679

EPA cannot guarantee the security of TSCA CBI sent through the U. S. Postal Service, including through Certified Mail. Please use a courier service.

All confidentiality claims are subject to EPA verification. It is important that your company satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue to do so, and that it is not and has not been obtainable by legitimate means without your company's consent. Information submitted as part of the company's comments will be handled as provided in 40 C.F.R. 2.205(c). Information covered by a confidentiality claim will be disclosed by EPA only to the extent permitted by 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to your company. 40 C.F.R. 2.203(a)

## **B. Definitions**

1. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
2. The terms "the Company" or "your Company" shall mean Taconic, Taconic Plastics, Tonoga, Inc., Tonoga of Delaware, and Taconic International, LTD and their predecessors, successors, subsidiaries, divisions, branches, officers, managers, employees, contractors, trustees, partners, assigns, or agents.
3. The term "chemical substance" shall have the same definition as that contained in Section 3(2)(A) of TSCA, 15 U.S.C. § 2602(2)(A).

4. The term "mixture" shall have the same definition as that contained in Section 3(8) of TSCA, 15 U.S.C. § 2602(8).
5. The term "process" shall have the same definition as that contained in Section 3(10) of TSCA, 15 U.S.C. § 2602(10).
6. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
7. The terms "document" and "documents" includes any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
8. The term "material" or "materials" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
9. The term "environmental degradation" refers to the transformation of a chemical substance into a new chemical substance through biochemical reactions, the actions of microorganisms such as bacteria, or by physical processes such as light or temperature.
10. The term "PFC" refers to a perfluorinated chemical or fluoropolymer and includes, but is not limited to, fluorinated emulsifiers such as perfluorooctanoic acid (PFOA) and salts thereof, such as ammonium perfluorooctanoate (APFO).
11. The term "PFC-producing material" refers to any material that releases, generates or has a PFC as a by-product or waste when subject to thermal, physical, or chemical processes.



## CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of

County of

I certify under penalty of law that I have personally examined and am familiar with the document submitted in response to EPA's Request for Information, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted document is complete and authentic unless otherwise indicated. I am aware that there are significant potential penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional or different information relevant to the matters addressed in EPA's Request for Information or the Company response thereto should become known or available to the Company.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
SIGNATURE

Sworn to before me this \_\_ day  
of \_\_\_\_\_, 2016

Notary Public

### **Request for Information**

1. Provide the following information for the Company's facility located at or about 136 Coonbrook Road, Petersburg, New York (hereinafter, the "facility"):
  - a. State the correct legal name(s) of each current and past owner and operator of the facility and the street and present mailing address of each such owner and operator. For each such entity, explain its direct or indirect relationship to your Company (if any), the time period when the entity owned or operated the facility, and the nature of the operations conducted by the entity at the facility.
  - b. What is the direct or indirect corporate or legal relationship between each of the entities listed in the definition of "the Company" in **Section B., Definitions**, of the Instructions for Responding to Request for Information set forth above?
  - c. Provide a chronology showing the acquisitions and/or mergers involving the entities referred to in questions 1.a. and b., above.
  - d. Identify each specific PFC (*e.g.*, PFOA and perfluorooctanesulfonic acid (PFOS)), PFC-containing or PFC-producing material (*e.g.*, tetrafluoroethylene (TFE)) that is or was stored, used, processed, manufactured, managed, released, generated as a by-product, derivative or thermal breakdown product, or otherwise present (hereinafter collectively referred to as "handled") at the facility.
  - e. State the time period during which each PFC, PFC-containing or PFC-producing material was or has been handled at the facility. To the extent the Company stopped using a particular PFC, PFC-containing or PFC producing material, indicate when, identify the substituted material and explain the basis for the change.
  - f. Submit all reports and analytical data in their complete form, including all attachments and notes, from the sampling of soils, sediments, groundwater, surface water, or environmental receptors (*e.g.*, freshwater or marine life) at the facility or elsewhere in Petersburg New York for PFCs, PFC-containing and/or PFC-producing materials, along with map(s) showing the respective sampling locations. Indicate the impetus for each sampling event, the basis for the selection of sampling locations, and, where relevant, how the Company determined the appropriate interval between sampling events.
  - g. For each sampling event identified in response to 1.f. above, please indicate if filters or treatment technologies were installed as a result of sampling. Please indicate the type of treatment technology, the reason for the installation of a filter or treatment technology, and where and when it was employed.
2. In or about December 2004 and January 2005, the Company performed a sampling program to evaluate the presence of PFOA at or near the facility. The results of this sampling

program were submitted to the New York State Department of Environmental Conservation (DEC) on August 3, 2005. Provide the following regarding this sampling.

- a. Submit a complete copy of the August 2005 notification that was sent to DEC, including all enclosures.
- b. To the extent not included as a response to any of the above questions, provide all sampling data, analytical reports and maps identifying sampling locations, as well as any analytical results for additional PFCs (*e.g.*, PFOS), PFC-containing or PFC-producing materials obtained during the above referenced sampling events.
- c. Indicate why the results of the sampling program were submitted to the DEC in August 2005, including whether the submission was required by or consistent with any law, regulation or policy and if so, what law, regulation or policy.
- d. Provide copies of all correspondence between the Company and any municipal, county, state or federal agency regarding the August 2005 submission, and summaries of all verbal communications.
- e. Did the sampling results reveal an actual or potential exposure to humans or other organisms to PFC, PFC-containing or PFC-producing materials via drinking water or any other medium? Identify both potential and actual exposure pathways and indicate the extent to which there was any actual human exposure at the time of sampling (*i.e.*, via drinking water). Provide all relevant documentation, including maps identifying locations of particular exposure pathways such as drinking water wells.
- f. Indicate whether the sampling and analysis was provided to any private entity and/or submitted to any other municipal, county, state and/or federal agency. If so, identify each such entity and/or agency, indicate why the Company provided the sampling and analysis to each entity or agency and provide a copy of each such correspondence/submittal.
- g. Were the sampling results and/or the PFOA environmental contamination reported to the National Response Center by telephone as an emergency incident of contamination or for any other reason? If so, provide any documentation regarding this reporting and indicate the date of such report.
- h. Indicate the Company's impetus for conducting the 2004/2005 sampling program (*e.g.*, it was performed in response to a known release or due to emerging science regarding PFOA). Provide specifics and all related documentation, including internal memoranda, emails and correspondence.
- i. Identify and provide all research and information the Company was aware of regarding PFOA and other PFCs at the time of the sampling and analysis. Such information may include, among other things, the Company's knowledge of then current litigation between EPA and other private entities regarding PFCs. Indicate whether any of this research or information provided a basis for conducting the sampling program. If so, explain.

- j. Indicate whether the Company conducted its own research on PFC, PFC-containing or PFC-producing materials before or after conducting the sampling program. Provide copies of any such research. If this research was shared with other private entities and/or any municipal, county, state or federal agencies, specify which entities and/or agencies were provided with the research and when. Provide documentation of all correspondence related to any shared information.
  - k. Detail any remedial actions taken by or on behalf of the Company as a result of the sampling (*i.e.* placing filters on wells, providing bottled water) and precisely where these actions were taken. Explain why such action(s) were taken, including whether such actions were taken pursuant to a directive by, or after consultation with, any municipal, county, state or federal agency. Provide specifics and all corresponding documentation, including internal memoranda, emails and correspondence discussing the scope and need for possible remedial options. Specify the scope of any alternative drinking water source program (e.g., supplying bottled water) instituted and detail the extent to which filter or treatment technologies were placed on residential or public drinking water wells. Provide maps detailing this information.
  - l. Section 8(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(e), requires any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment to immediately inform EPA of such information unless such person has actual knowledge that EPA has been adequately informed of such information. Provide a copy of any such notification submitted to EPA as a result of the above sampling or indicate why a TSCA notification was not submitted.
3. In January 2009, EPA issued provisional health advisories for PFOA and PFOS.<sup>1</sup> Provide the following information in light of these advisories:
- a. Indicate if these advisories provided information not previously known to the Company regarding the toxicity and/or potential adverse health effects of PFOA, PFOS or any other PFC, PFC-containing or PFC-producing materials. If so, please be specific.
  - b. Identify and submit copies of any reports or submissions made by or on behalf of the Company to municipal, county, state and/or federal agencies in light of these advisories and the presence of PFC, PFC-containing or PFC-producing materials at or near the facility.
  - c. Indicate whether the National Response Center was informed of the PFOA contamination at or near the facility or contamination from any other PFC, PFC-containing or PFC-producing materials and if so, provide documentation of any such notifications.

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<sup>1</sup> See <https://www.epa.gov/sites/production/files/2015-09/documents/pfoa-pfos-provisional.pdf>.

- d. Identify any actions taken by or on behalf of the Company in light of these advisories and the presence of PFC, PFC-containing or PFC-producing materials at its facility or in groundwater or other environmental media in Petersburg, NY, such as providing bottled water and the installation of filters or other treatment technologies. Specify the scope of any bottled water program instituted and detail the extent to which filter or treatment technologies were placed on residential or public drinking water wells. Provide maps detailing this information.
  - e. Indicate whether the presence of PFC, PFC-containing or PFC-producing materials in groundwater or other media at the facility or elsewhere in Petersburg, NY at or about the time the advisories were issued presented an actual or potential exposure to humans via drinking water or another medium? Provide specific exposure pathways and indicate the extent to which there was any actual human exposure at the time of sampling (*i.e.*, via drinking water). Provide all relevant documentation, including maps identifying locations of particular exposure pathways such as drinking water wells and the use of treatment technologies on those wells.
  - f. Provide a copy of any TSCA Section 8(e) notification submitted to EPA by or on behalf of the Company in light of these advisories and the PFC contamination at or in the vicinity of the facility. If a notification was not provided, explain why not.
4. Provide copies of all additional correspondence between the Company and any municipal, county, state or federal agency regarding the use and presence of PFC, PFC-containing or PFC-producing materials at the facility or in Petersburg, NY. To the extent the correspondence was initiated by the Company, if not clear from the face of the document, please indicate why the Company contacted each governmental entity (*e.g.* the Company was legally required to do so or concerned about the level of contamination).
5. Provide copies of all correspondence between the Company and any entity regarding the potential scope of contamination at or from the facility of PFCs, PFC-containing or PFC-producing materials and any internal memoranda, emails or correspondence discussing such documents.
6. Provide copies of any reports the Company generated or received concerning potential effects of PFC, PFC-containing or PFC-producing materials on humans (including, but not limited to, workers on site), other living organisms and/or the environment, including any information regarding dermal contact, ingestion (*e.g.*, via drinking water), inhalation, and the bioaccumulation of PFC, PFC-containing or PFC-producing materials. Provide all corresponding documentation, including summaries of verbal communications, internal memoranda, emails and correspondence.
7. Submit all reports and analytical data concerning the potential environmental degradation (*i.e.*, biotic or abiotic) of PFCs, PFC-containing, or PFC-producing materials. Include the time that the Company became aware of these data and any subsequent actions undertaken by or on behalf of the Company (*e.g.*, environmental sampling) to monitor or evaluate the degradation products.

8. Provide copies of all correspondence between the Company and any other private entity regarding the potentially adverse effects of PFCs, PFC-containing or PFC-producing materials, and any internal memoranda, emails or correspondence discussing such documents.
9. Provide copies of all internal correspondence and memoranda regarding the potentially adverse effects of PFCs, PFC-containing or PFC-producing materials.
10. Submit all facility and/or corporate policies developed to ensure compliance with TSCA Section 8(e).
11. State the name, title and address of each individual who assisted or was consulted in the preparation of your response to this Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.